

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**KEVIN POWELL,**  
**Plaintiff**

**v.**

**JOHN E. WETZEL, et al.,**  
**Defendants**

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**No. 1:12-cv-02455**

**(Judge Kane)**

**(Magistrate Judge Schwab)**

**ORDER**

**AND NOW**, on this 3<sup>rd</sup> day of June 2014, **IT IS HEREBY ORDERED THAT**

Magistrate Judge Schwab's Report and Recommendation (Doc. No. 44) is **ADOPTED IN**

**PART** as follows:

1. Defendants' motion to dismiss Plaintiff's amended complaint with prejudice (Doc. No. 31) is **GRANTED** with respect to Counts I, II, and V; and **DENIED** with respect to Counts III and IV;
2. Defendants' motion to strike (Doc. No. 31) is **DENIED**; and,
3. The above-captioned action is **REFERRED BACK** to Magistrate Judge Schwab for pretrial management, including the disposition of any pending motions.

S/ Yvette Kane  
Yvette Kane, District Judge  
United States District Court  
Middle District of Pennsylvania